



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,800	03/31/2004	Kathleen Tyson-Quah	126-001USANCO	4936
7590 Thomas J. Perkowski, Esq., P.C. Soundview Plaza 1266 East Main Street Stamford, CT 06902			EXAMINER POINVIL, FRANTZY	
			ART UNIT 3696	PAPER NUMBER
			MAIL DATE 01/06/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/814,800

Applicant(s)

TYSON-QUAH, KATHLEEN

Examiner

Frantzy Poinvil

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 57-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 57-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Regarding the status of the claims in the instant application, the Examiner has previously indicated allowable subject matter of claims 57-75. The Examiner has made an updated search and found new prior art. The Examiner is obliged to apply the newly found prior art. The Examiner regrets the delayed process of the application. Accordingly, claims 57-75 remain pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 57-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carrithers et al. (US Patent No. 5,956,695).

As per claim 57, Carrithers et al are directed to a filter processor and method for implementing an incentive program. In so doing, Carrithers et al disclose a user or customer making a purchase from a vendor comprising the steps of:

(a) receiving at least one user-supplied risk parameter associated with the counterparty (this is similar to the function of receiving the merchant account number and/or purchased amount or to be paid to the merchant);

As per the limitation of “(b) receiving a first instruction authorizing payment from the account holder to the counterparty;

(c) storing the first instruction in a payment queue; and

(d) executing a risk filter routine determining the processing of a payment transaction;

wherein the execution of said risk filter routine includes the steps of:

generating an available balance for the counterparty based upon the at least one user-supplied risk parameter, payments made by the account holder, and payments received by the account holder;

reading the first instruction from the payment queue of the payment bank system; and

determining whether to selectively reject payment authorized by the first instruction

based upon the available balance and said at least one user-supplied risk parameter associated with the counterparty”, applicant is directed to column 2, lines 15-67 of Carrithers et al.

The only difference between Carrithers et al and the claimed invention is that Carrithers et al do not explicitly teach “the first instruction is returned to the payment queue for later re-evaluation in the event that the amount of payment authorized by the first instruction exceeds the said available balance”. As per this feature, the Examiner asserts that if an amount on the customer's debit or credit account is insufficient to cover a particular transaction, the customer may add additional funds to his/her debit card or request an additional credit limit in his/her credit card thus providing funds to cover the particular transaction. As such, performing a re-evaluating step would have been obvious to one of ordinary skill in the art to do in the system and method of Carrithers et al in order to assure that sufficient funds are available to cover the

particular transaction or the customer is the owner of the credit or debit card involved in the particular transaction as so to deter fraudulent transactions.

As per claim 58, Carrithers et al disclose generating at least one user-supplied risk parameter (such as the merchant identifier or the transaction amount) on a user system and communicating the at least one user-supplied risk parameter to the risk filter routine.

As per claim 59, see column 2 of Carrithers et al.

As per claims 60-66, a user's available is usually calculated in a billing period or daily or after each transaction that has been performed in which funds are deducted, charged or added therein. After each of these calculations or changes, the account would be updated.

As per claim 67, see column 5, lines 30-67.

As per claims 68-75, the system of Carrithers et al comprises a payment bank system, customers' modules, risk routine filters, at least one user-supplied risk parameter to the module integrated into the payment bank system that executes the risk filter routine. The payment bank also performs functions of rejecting payment authorized by instructions from the customer. Applicant is directed to columns 8-9 of Carrithers et al.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Frantzy Poinvil/
Primary Examiner
Art Unit 3696**

FP
December 29, 2008